UNITED STATES PATENT AND TRADEMARK OFFICE

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10/693,470	10/24/2003	Pierluigi Pugliese	PUGLIESE 32	2561

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EXAMINER
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ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
09/01/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 May 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 November 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some *   c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Argument

1.   Applicant's arguments filed 05/12/2009 have been fully considered but they are not persuasive. Claims 1-21 are currently pending.

Applicant, on page 7-8 of the remark, argues that The Applicant fails to find any teaching or suggestion in the cited portion of Zhang of a weighting based on the severity of a malfunction, where the weighting is performed prior to transmission of the data, and where the weighting allows for easy detection and easy distinguishing of less severe vs. severe malfunctions. However, the Examiner respectfully disagrees.

Zhang discloses in paragraph 37 that the maintenance task module 310 monitors these performance and error data logs contained in memory management **module 340 in order to determine when this information should be transmitted to service center 130** (FIG. 1). The criteria for transmission may be varied, including a predetermined amount of time having elapsed prior to the last performance and data log transmission, or receipt of a broadcast signal from service center 130 indicating that the information should be transmitted. **Other actions which may result in the transmission of this information may be the compiling of more than a predetermined number of errors within memory management module 340, or the recognition of a particularly important, dangerous, or fatal error recognized by maintenance task module 310.** Once it is determined that the performance and error data logs are to be transmitted from a particular mobile station 110 to service center 130.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claims 1-3, 5-6, 10-15 and 17-25 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Zhang (Pub. No: 2001/0049263) in view of Jennings (Pub. No.:

20030032408).

        Regarding claim 1, Zhang discloses a method of ascertaining a state of a mobile

communication apparatus, comprising:

        collecting data on at least one of individual components and procedures embedded within

said mobile communication apparatus, said data associated with at least one malfunction of at

least one of said individual components and procedures embedded within said mobile

communication apparatus and based on status quo information derived therefrom, assigning said

data to said at least one of said individual components and procedures (fig. 3, [0031] to [0044].

Zhang discloses that the maintenance task module 310 collects data from each module 320, 330,

340 and 350 to analyze type of error information (e.g., software or hardware version) and then

the that the maintenance task module 310 transmits the information to service center 130); and

        radio transmitting said data from said mobile communication apparatus via said radio

network to which said mobile communication apparatus is affiliated to a service center 130 (fig.

1 and [0031] to [0044]. Zhang discloses that the maintenance task module 310 collects logging

data from each of these components, e.g., 320, 330, 340 and 350 and then transmits the collected information to service center 130),

wherein said data is weighted base on a severity of said malfunctions prior to said radio transmitting so that server and less server malfunctions are easily detectable and distinguishable from one another ([0037] to [0039]. Zhang discloses "maintenance task module 310 monitors these performance and error data logs contained in memory management module 340 in order to determine when this information should be transmitted to service center 130 (FIG. 1). The criteria for transmission may be varied, including a predetermined amount of time having elapsed prior to the last performance and data log transmission, or receipt of a broadcast signal from service center 130 indicating that the information should be transmitted. <u>Other actions which may result in the transmission of this information may be the compiling of more than a predetermined number of errors within memory management module 340, or the recognition of a particularly important, dangerous, or fatal error recognized by maintenance task module 310</u>").

However, Zhang does not specifically disclose collecting data on a subscriber information module (SIM) card.

In the same field of endeavor, Jennings discloses a SIM card includes a SIM Application Toolkit (SAT) program. That collects any error in software or hardware and other operating data within the handset and then transmits to the service center 3 (fig. 1 to fig. 2 and [0021] to [0025])

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile station of Zhang by specifically a SIM card includes a SIM Application Toolkit (SAT) program. That collects any error in software or hardware and other operating data within the handset and then transmits to the service center 3, as taught by

Jennings, the motivation being in order to ensure correct operation.   Furthermore, the

information is not lost upon power down of the mobile terminal.

Regarding claim 2, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said collecting is performed by using a

trace routine ([0031] to [0033] and [0035] to [0038]).

Regarding claim 3, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said transmitting is performed by using a

selected one of an SMS and a predefined data call ([0029]). Additionally, Jennings discloses the

method wherein said transmitting is performed by using a selected one of an SMS and a

predefined data call ([0045]).

Regarding claim 5, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said data are stored prior to performing

said radio transmitting ([0037] to [0038]).

Regarding claim 6, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said radio transmitting is performed in

regularly spaced intervals ([0030] and [0039]).

Regarding claim 10, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said data are transferred between said

mobile communication apparatus and said network without signaling said user of said mobile

communication apparatus ([0030]).

Regarding claim 11, the combination of Zhang and Jennings disclose all the limitations in claim 1. Further, Zhang discloses the method wherein said data is associated with multiple malfunctions ([0021] to [0067]).

Regarding claim 12, the combination of Zhang and Jennings disclose all the limitations in claim 1. Further, Zhang discloses the method wherein a selected one of said collecting and said transmitting is carried out dependent on selectable information items ([0037] to [0039]).

Regarding claim 13, this claim is rejected for the same reason as set forth in claim 1.

Regarding claim 14, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 15, this claim is rejected for the same reason as set forth in claim 3.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 5.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 6.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 9.

Regarding claim 22, this claim is rejected for the same reason as set forth in claim 10.

Regarding claim 23, this claim is rejected for the same reason as set forth in claim 11.

Regarding claim 24, this claim is rejected for the same reason as set forth in claim 12.

Regarding claim 25, the combination of Zhang and Jennings all the limitations in claim 13. Further, Zhang discloses the mobile communication apparatus wherein said mobile communication apparatus is a mobile phone adapted to operate on a selected one of a GSM standard and a UMTS-standard ([0025]).

4.   Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang

(Pub. No: 2001/0049263) in view of Jennings (Pub. No.: 20030032408) and further in view of

Gustafsson (U.S. 6424841).

Regarding claim 4, the combination of Zhang and Jennings disclose all the limitations in

claim 1. Further, Zhang discloses the method wherein said data are coded in a space-efficient

format prior to performing said radio transmitting ([0029] and [0039] to [0042]).

However, the combination of Zhang and Jennings do not said data are coded in a space-

efficient format.

In an analogous art, Gustafsson discloses said data are coded in a space-efficient format

(col. 1, line 58 to col. 2, line 31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify the invention of Zhang by specifically including said data are

coded in a space-efficient format, as taught by Gustafsson, the motivation being in order to use

less bandwidth.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 4.

5.   Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (Pub.

No: 2001/0049263) in view of Jennings (Pub. No.: 20030032408) and further in view of

Raivisto (Pub. No: 20040075675).

Regarding claim 7, the combination of Zhang and Jennings disclose all the limitations in claim 1. However, Zhang does not disclose the method wherein said radio transmitting is performed during an initializing menu procedure.

In an analogous art, Raivisto discloses the method wherein said radio transmitting is performed during an initializing menu procedure ([0026], [0044] and [0047] to [0048]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Zhang by specifically including the method wherein said radio transmitting is performed during an initializing menu procedure, as taught by Raivisto et al., the motivation being in order to reduce user burden in manipulating the mobile terminal to invoke the proper access methodology. Additionally, it allows the service providers and operators to facilitate the offering of their services and applications to end users.

Regarding claim 8, the combination of Zhang and Jennings and Raivisto et al. disclose all the limitation in claim 7. Further, Raivisto et al. disclose the method wherein said menu procedure is activated during a selected one of when said mobile communication apparatus is logged-in to said network and when said mobile communication apparatus is logged-off from said network ([0026], [0044] and [0047] to [0048]).

Regarding claim 9, the combination of Zhang and Jennings and Raivisto et al. disclose all the limitation in claim 7. Further, Raivisto et al. disclose the method wherein said menu procedure is activated by a selected one of said user of said mobile communication apparatus and externally via said network ([0026], [0044] and [0047] to [0048]).

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7687.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dai A Phuong/
Examiner, Art Unit 2617
Date: 08/26/2009

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617